

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:23-cv-659-FDW**

**IESHA C. MURPHY,**

**Plaintiff,**

**vs.**

**FNU SCHULLER,**

**Defendant.**

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**ORDER**

**THIS MATTER** is before the Court *sua sponte*.

The Plaintiff filed this civil rights action while she was a North Carolina state prisoner; she has now been released. [Docs. 1, 9]. On February 2, 2024, the Complaint passed initial review on an Eighth Amendment claim against Defendant Schuller, a correctional officer, in his individual capacity. [Doc. 10]. Service waiver is underway. [See Doc. 11]. In the initial review Order, the Court instructed the Clerk to mail the Plaintiff an Opt-In/Opt-Out form pursuant to the Standing Order in Misc. Case No. 3:19-mc-00060-FDW so that they Plaintiff may request the appointment of North Carolina Prisoner Legal Services (NCPLS) to assist her with discovery. [*Id.* at 5]. That day the Court also sent her, in error, an Opt-In/Opt-Out form pursuant to the Court's Pro Se Settlement Assistance Program (PSAP), which does not apply to prisoner litigation.<sup>1</sup> On February 21, 2024, the Plaintiff returned a completed form requesting participation in the PSAP program. [Doc. 16]. Plaintiff has not returned the NCPLS form to date.

The Clerk will be instructed to strike the Plaintiff's completed PSAP form [Doc. 16], because her prisoner civil rights case does not qualify for participation in that program. The Clerk

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<sup>1</sup> See <https://www.ncwd.uscourts.gov/pro-se-settlement-assistance-program>.


will be instructed to mail the Plaintiff another blank the NCPLS Opt-In/Opt-Out form. If the Plaintiff would like to request the appointment of NCPLS to assist her with discovery, she shall complete and return the form to the Court within 14 days of this Order.<sup>2</sup> If the Plaintiff fails to do so, the Court will not appoint NCPLS in this matter.

**IT IS, THEREFORE, ORDERED** that:

1. The Plaintiff's Pro se Opt In of PSAP Program [Doc. 16] is **STRICKEN**.
2. The Plaintiff shall return to the Court a completed NCPLS form pursuant to the Court's Standing Order in Misc. Case No. 3:19-mc-00060-FDW withing **14 (fourteen) days** of this Order. If she fails to do so, NCPLS will not be appointed in this matter.

The Clerk is respectfully instructed to mail the Plaintiff a blank NCPLS Opt-In Opt-Out form pursuant to Misc. Case No. 3:19-mc-00060-FDW, and a copy of this Order.

Signed: March 4, 2024

  
Frank D. Whitney  
United States District Judge

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<sup>2</sup> Even if the Plaintiff requests the appointment of NCPLS to assist her with discovery, it is not guaranteed that NCPLS will accept the appointment. See Misc. Case No. 3:19-mc-00060-FDW Doc. 1 at 1-2.